

**ARIZONA RACING COMMISSION****534TH REGULAR MEETING****WEDNESDAY, JUNE 9, 2004****MINUTES OF PUBLIC MEETING**

A public meeting of the Arizona Racing Commission was convened on Wednesday, June 9, 2004, beginning at 10:00 a.m. in Building Conference Room 250, 2nd Floor, 1110 West Washington, Phoenix, Arizona.

**A. Call to Order:**

**Present:** Chairman Michael Napier  
Vice-Chairman Bob Ford  
Commissioner Burton Kruglick  
Commissioner Michael Vespoli

**Also Present:** Geoffrey E. Gonsher, Director  
Blair Driggs, Assistant Attorney General

Chairman Napier called the 534th Regular Meeting of the Arizona Racing Commission to order at 10:00 a.m. The following matters were discussed, considered, and decided at the meeting:

1. **Introduction of Guests** – No guests were introduced.
2. **Approval of the Minutes of the 533rd Regular Meeting held Wednesday, May 12, 2004.**  
Chairman Napier called for a motion. Vice-Chairman Ford moved for approval.  
Commissioner Kruglick seconded the motion. All in favor

**B. Department Information Reports**

Commission members were provided with informational reports on all items listed below. Director Gonsher reported on selected items.

1. **Renewal of Permit to Conduct a Horse Racing Meeting and Teletrack Wagering for Yavapai County Fair Association**
2. **Consent Agreement and Order for Case No. 03A-011-RAC and 03A-012-RAC (Consolidated)**  
dated September 9, 2003 – Adrian Periban-Gomez and Sal Gonzalez
3. **Department of Racing Hearing Procedures** – Chairman Napier questioned Assistant Attorney General Driggs about the language contained in paragraph three of the Director's Introduction to Administrative Hearings and suggested that the word "substantial" be changed to "relevant."
4. **New Detention Stall Signs** – Director Gonsher displayed the new race day stall signs that will enable the Department to more closely monitor medication oversight at the track.
5. **Training for New Special Investigators**
6. **Licensing Application Process Status Report**
7. **North American Pari-Mutuel Regulators Association (NAPRA) Financial Report**
8. **FY 2005 Department of Racing Budget**
9. **Employee Annual Leave Balances**
10. **Racing-Related Issues**
11. **Department of Racing Correspondence**

**ARIZONA RACING COMMISSION****WEDNESDAY, JUNE 9, 2004****534TH REGULAR MEETING****C. New Business**

The following New Business items are for a status report, presentation, discussion, and possible action for the Commission.

**1. County Fair Applications for FY 2005**

- a. Cochise County Fair Association – April 9, 10, 16, 17, 2005
- b. Coconino County Fair Racing – July 2, 3, 4, 5, 2004 (live racing) & July 1, 6, 2004 (dark days)
- c. Graham County Fair & Racing Association – March 26, 27, April 2, 3, 2005
- d. Mohave County Fair Association – May 14, 15, 21, 22, 2005
- e. Pima County Fair Horse Racing Commission – January 22, 23, 29, 30, 2005

Commissioner Napier asked Commission members if there were any questions or discussion. Commissioner Kruglick asked that the Commission be provided with copies of the profit and loss statements from each fair. He also asked that each fair provide a report of the success or failure of this year's race meeting along with suggestions for next year's race meeting. Chairman Napier called for a motion. Vice-Chairman Ford moved to approve the county fair applications listed as Items 1.a. through 1.e. Commissioner Vespoli seconded the motion. All in favor.

2. Coconino County Fair Racing – 2004 Teletrack Wagering Application – Chairman Napier called for discussion or a motion. Commissioner Kruglick moved to approve. Vice-Chairman Ford seconded the motion. All in favor.

3. Second Call – Chairman Napier expressed his gratitude for those who assisted in establishing Second Call, a fund that will be used for the care, rehabilitation and retraining of active thoroughbred or quarter horse race horses which are injured or recently retired from racing. He especially thanked Turf Paradise for their initial contribution of \$5,000. It is hoped that this program will be used as a model for similar programs in other jurisdictions.

4. Presentation by Daniel L. Fick, Executive Director, The Jockey Club – Mr. Fick gave an overview of The Jockey Club, an organization established in 1894 and dedicated to the improvement of Thoroughbred breeding and racing. Mr. Fick's presentation included information about The Jockey Club Family of Companies as well as information on the Universal Racing License and racing medication and testing issues. Following his presentation, Mr. Fick responded to questions from Commission members.

5. Appeal of Director's Decision of Case No. 04A-010-DOR dated May 5, 2004 – Willie A. Belmonte Blair Driggs, Assistant Attorney General, appeared for Mary DeLaat Williams, Assistant Attorney General, on behalf of the Department of Racing. Roland Arroyo, Esq., appeared on behalf of Appellant Willie A. Belmonte. Assistant Attorney General Victoria Mangiapane of the Solicitor General's Office provided independent legal advice to the Racing Commission. Mr. Arroyo presented oral argument on behalf of the Appellant urging the Commission to consider modifying the penalty portion of the Director's order. Mr. Arroyo, in support of his argument, cited similar cases in which a lesser penalty was given when a licensee refused to submit to drug testing. Assistant Attorney General Driggs gave oral argument on behalf of the Department of Racing, urging the Commission to affirm the Director's decision, stating that the Director has been consistent in the treatment of these types of offenses. Commission members asked questions of the attorneys and deliberated the matter. Commissioner Kruglick moved to modify the Director's order by reducing the penalty from revocation to a six-month suspension effective from February 20, 2004. Commissioner Vespoli seconded the motion. Vice-Chairman Ford made a motion to amend the original motion to include the requirement for three random drug tests during the six-month suspension period. Commissioner Kruglick agreed to the amendment. Commission members stated that the remaining conditions of the Director's original order would stay the same. Chairman Napier called for a final vote. The matter was approved 3-1. Ayes: Kruglick, Ford and Vespoli. Nays: Napier. Chairman Napier stated that he thought the Director made the correct decision and that the Department needed to send a strong message to the industry that this type of infraction will not be tolerated.

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6. **Appeal of Director's Decision of Case No. 04A-011-DOR dated April 27, 2004** – Don L. French, Blair Driggs, Assistant Attorney General, appeared for Mary DeLaat Williams, Assistant Attorney General, on behalf of the Department of Racing. Don L. French, the Appellant, was present. John Beech from the Jockeys' Guild, identified himself as the representative for the Appellant and indicated he was prepared to present argument on the Appellant's behalf. Assistant Attorney General Driggs made an objection to the participation of Mr. Beech as a representative in this matter since he was not an attorney. Assistant Attorney General Victoria Mangiapane of the Solicitor General's Office provided independent legal advice to the Commission. After consultation and discussion, the Commission upheld Assistant Attorney General Driggs' objection and informed Mr. Beech that he could not speak on the Appellant's behalf. The Commission took a brief recess to allow Mr. Beech and the Appellant to consult with each other.

*Item No. 7 and section D. Commission Reports were addressed during the recess that began at 11:25 a.m. Details of these items can be found following Item No. 6.*

*Item No. 6 resumed at 11:28 a.m.*

Mr. French addressed the Commission and presented argument that he felt the Director's penalty in his case was too severe and asked that the Commission consider reducing the penalty. Mr. French also stated that he would be willing to enter into a drug rehabilitation program in order to keep his license. Assistant Attorney General Driggs gave oral argument on behalf of the Department of Racing, urging the Commission to affirm the Director's decision, citing the consistency of the Director's decisions in these types of cases. Commission members asked questions of Mr. French and Assistant Attorney General Driggs. The Commission then questioned Director Gonsler with respect to the rationale behind his decision. Director Gonsler informed the Commission that the rationale for the penalty he imposed was based on the Appellant's arrest for drug possession, his subsequent positive test for drugs at the racetrack and his lack of candor and responsibility with regard to his drug problem. The Commission then deliberated the matter. At the end of the deliberation, Vice-Chairman Ford moved to uphold the Director's decision. Commissioner Kruglick seconded the motion. Commissioner Vespoli asked that the motion be amended to provide for the Commission to reconsider the Appellant's case for possible reduction of the time he is ineligible for reapplication if he provides proof that he has successfully completed a drug rehabilitation program. Vice-Chairman Ford and Commissioner Kruglick approved the amendment to the motion. The Commission deliberated further and asked questions of Ms. Mangiapane. The Commission restated their final motion: That the terms of the Director's Order revoking the Appellant's license are affirmed with the only modification being that the Appellant may petition the Commission to consider shortening the time the Appellant is ineligible for reapplication (currently 2 years) should the Appellant successfully complete a drug rehabilitation program. The Commission will place this matter on their agenda at a future meeting should the Appellant provide the required information to the Racing Department. All other terms and conditions of the Director's original order are affirmed. Chairman Napier called for the final vote. **The amended motion passed unanimously.**

7. **Permittee Operations Reports** (This item was addressed during a recess of Item No. 6.)

- Apache Greyhound Park – no report
- **County Fairs** – Roy Snedigar, County Fair Coordinator, reported that the next county fair racing meet will be held at Coconino County Fairgrounds in Flagstaff over the 4th of July.
- Phoenix Greyhound Park – no report
- Rillito Park – no report
- **Tucson Greyhound Park** – Marshall Kueker, General Manager, reported that handle was up at TGP for the Belmont.
- **Turf Paradise** – Randy Fozzard, General Manager, reported that Turf finished its meet and was up in all areas.
- **Yavapai Downs** – Jim Grundy, General Manager, reported that they are up in almost all areas, including attendance. The only exception is out-of-state handle. Yavapai showed an all-time record for the Belmont.
- Yuma Greyhound Park – no report

**ARIZONA RACING COMMISSION****WEDNESDAY, JUNE 9, 2004****534TH REGULAR MEETING****C. Commission Reports** (This item was addressed during a recess of Item No. 6.)

1. **Summary of Current Events Affecting the Arizona Racing Commission** – Those in attendance were notified that a Special Commission Meeting would be held on Thursday, July 1, at 10:00 a.m., to discuss Department of Racing budget issues and alternate funding sources.
2. **Identification of Matters to be Placed on Future Agendas** – No matters were identified.

**Executive Sessions.** The Commission may vote to go into executive session on any of the foregoing agenda items for legal advice from its attorney pursuant to A.R.S. § 38-431.03(A)(3).

The Racing Commission did not adjourn to Executive Session.

**E. Call to the Public**

Those members of the public wishing to address the Commission must sign the signup sheet and be recognized by the Chair. Time permitting; each presentation will be given approximately five minutes. Action taken as a result of public comment will be limited to directing staff to study the matter or re-schedule the matter for further consideration at a later date.

No public comments were made.

**Announcements**

The next regular commission meeting will be held on Tuesday, July 13, 2004, at 10:00 a.m., at Yavapai Downs.

**Adjournment:**

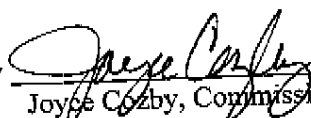
**Chairman Napier** called for a motion to adjourn. **Commissioner Vespoli** moved to adjourn.

**Commissioner Kruglick** seconded the motion. **All in favor.**

The meeting adjourned at 11:47 a.m.

Dated this 9th day of July 2004.

Arizona Racing Commission

By   
Joyce Cozby, Commission Secretary